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IN THE

Supreme Court of the United States

OCTOBER TERM, 1980

No. 79-1661

HANNAHVILLE INDIAN COMMUNITY, *et al.*,
Petitioners,

v.

THE UNITED STATES OF AMERICA,
Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CLAIMS

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PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF CLAIMS

Petitioners (Potawatomi and Miami Indian tribes which were parties to the treaty of Greenville of August 3, 1795, 7 Stat. 49, or their representatives) pray that a writ of certiorari issue to the United States Court of Claims to review the judgment of that Court entered in this case on January 23, 1980 in Appeal No. 11-78, (Ind. Cl. Comm. Dockets 29-C and 130).

OPINIONS BELOW

The opinion of the Court of Claims, (Appendix A) rendered on January 23, 1980 by a three-judge panel of that Court, on appeal from the Indian Claims Commission, reversed in part the decision of the Indian Claims Commission, 43 Ind. Cl. Comm. 687, 747 (September 29, 1978) entered only one day prior to the expiration of the statutory life of the Commission. Request for rehearing by defendant and requests for rehearing and oral argument by plaintiffs were denied March 28, 1980.

JURISDICTION

Jurisdiction is invoked under the Indian Claims Commission Act, 60 Stat. 1049, 27 U.S.C. §70s(c), and 28 U.S.C. §1255.

QUESTIONS PRESENTED

Have the plaintiffs received fair and reasonable or an "unconscionable consideration" in "fair and honorable dealings", as "recognized by any existing rule of law or equity" in either contract or in tort or "any other ground cognizable by a court of equity", as provided by the Indian Claims Commission Act.

TREATIES AND STATUTES INVOLVED

Pertinent statutes are the Treaty of Greenville of August 3, 1795, 7 Stat. 49 (Appendix B); and the Indian Claims Commission Act of 1949, 60 Stat. 1049, as amended, 25 U.S.C. §§70 et seq (Appendix C); and the Decree of George III, dated October 7, 1763 (Appendix D).

STATEMENT OF THE CASE

The occupants of the "Northwest Territory" lying north of the Ohio River and east of the Mississippi River held "Indian title" to this vast and valuable area (*U.S. v. Alcea Band of Tillamooks*, 329 U.S. 40 (1946). Such title and ownership was recognized by the British crown in the "Proclamation of 1763". Under the Treaty of Paris of September 3, 1783 ending the Revolutionary War, the United States obtained no greater rights than the British held at that time.

The "Miami Tribe" and the affiliated "Wea" sub-tribe once owned and controlled most of the southern three-quarters of the State of Indiana. These Indians ceded to the United States three strategically located tracts in northern Indiana, including Fort Wayne, Indiana (see Article III, §§5, 6 & 7 of the Greenville Treaty). These contained a total area of 48,640 acres. The total consideration for these cessions was $44,337.50, or about 91 cents an acre. For this the Indian Claims Commission recognized a value

of $1.08 an acre, or $52,531.20, but declined to make an award because the difference between the value found of $1.08 an acre and 91 cents an acre was not "unconscionable". For the eight mile portage road from Fort Wayne to a branch of the Wabash River, the award was a TOTAL of $2.50. There was *NO* award for the approximately four hundred (400) miles of river easements through Indian country in Ohio and Indiana. The Court of Claims AFFIRMED this judgment!!!

The "Potawatomi Nation" owned and controlled over 30,000,000 acres of much of the finest land in the Northwest Territory extending from Cleveland and Detroit to the Mississippi River and from Green Bay, Wisconsin, and Grand River, Michigan to the Wabash River and St. Louis. The Indian Claims Commission awarded the Potawatomi $1.17 an acre, or $26,956.80, for the 23,040 acres (six miles square or 36 square miles) of Chicago "where a fort formerly stood" (Article III, §14); $1.08 per acre for 7,460 acres ($7,948.80) at Peoria, Illinois "at the old Piorias fort and village, near the south end of the Illinois lake on said Illinois river" (Article III, §16); and $1.08 an acre for 22,000 acres ($23,760.00) "at or near the mouth of the Illinois river emptying into the Mississippi" (Article III, §15). For the approximately ten mile portage from Chicago to the Illinois River the Indian Claims Commission awarded a TOTAL of Ten Dollars ($10). The defendant's own witness had conceded $1,000. The Court of Claims increased this to $9,600, which was the evaluation as of 1795 by the plaintiffs' witness. There was *NO* award for the more than 300 miles of river easements through the Potawatomi country from Chicago to the Mississippi River near St. Louis, and NO award for interest since 1795 or other consideration for delayed payment or for any change in the value of the U.S. dollar!!!

REASONS FOR GRANTING THE WRIT

1. The failure to make any award whatsoever to the Miami Tribe was unconscionable.

2. The awards to the Potawatomi Tribe or Nation were arbitrary, unreasonable, capricious, inadequate, and in respect to important river easements were skipped or omitted in their entirety.

3. The use and misuse of the Greenville enclaves, portages, and particularly the river routes (for which no awards were granted) enabled intruders, both military and white settlers, by their tortious acts, trespasses, treaties and infractions of treaties, to oust the Indian owners and remove them west of the Mississippi or cause them to flee to northern Wisconsin or beyond within 40 years.

4. "Fair and honorable dealings" or "any other ground cognizable by a court of equity", as required by the statute, necessitates that interest or other appropriate consideration be awarded for the nearly 200 years which have elapsed in righting the wrongs which Congress intended to be adjudicated here.

5. The change in the value of the dollar due to interim inflation, especially since August 13, 1949 when the Indian Claims Commission Act became law, should be part of the fair, honorable and equitable consideration extended in this case.

CONCLUSION

For said reasons, the writ of certiorari to the United States Court of Claims should be granted.

Respectfully submitted,

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Of Counsel:

ALBERT C. HARKER

In the United States Court of Claims

(Decided January 23, 1980)

Appeal No. 9–78
Ind. Cl. Comm. Docket No. 252
THE MIAMI TRIBE OF OKLAHOMA, Appellant, v. THE UNITED STATES, Appellee.

Appeal No. 10–78
Ind. Cl. Comm. Docket No. 338
THE PEORIA TRIBE OF OKLAHOMA Appellant, v. THE UNITED STATES, Appellee.

Appeal No. 11–78
Ind. Cl. Comm. Docket No. 29–C

HANNAHVILLE INDIAN COMMUNITY, FOREST COUNTY POTTAWATOMIE COMMUNITY, THE POTTAWATOMIE INDIANS OF INDIANA AND MICHIGAN, INCORPORATED, and POTTAWATOMIE NATION OF INDIANS, Appellant, v. THE UNITED STATES, Appellee.

Appeal No. 11–78
Ind. Ct. Comm. Docket No. 130
IRA SYLVESTER GODFROY, *et al.*, *ex. rel.*, THE MIAMI INDIAN TRIBE, Appellant, v. THE UNITED STATES, Appellee.

APPENDIX "A"

Edwin A. Rothschild, attorney of record for appellant in Docket No. 252.

Jack Joseph, attorney of record for appellants in Docket No. 338.

Robert C. Bell, Jr., attorney of record for appellants in Docket No. 29–C.

Robert L. Kiley, attorney of record for appellants in Docket No. 130.

D. Lee Stewart, with whom was *Assistant Attorney General James W. Moorman*, for appellee.

Before FRIEDMAN, *Chief Judge*, COWEN, *Senior Judge*, and KUNZIG, *Judge*.

ON APPEALS FROM THE INDIAN CLAIMS COMMISSION

KUNZIG, *Judge*, delivered the opinion of the court:

This Indian Claims case return to us[1] on several issues involving valuation by the Indian Claims Commission (Commission) of lands ceded by appellants to the United States in the 1795 Treaty of Greenville, 7 Stat. 49, and the effect upon appellants' claims of consideration they received from the Government under the treaty. Appellants contest the Commission's decision denying the additional compensation to the Miami Tribe of Oklahoma (Docket No. 252), the Miami Indian Tribe (Docket No. 130), and the Peoria Tribe of Oklahoma (Docket No. 338) (suing on behalf of the Wea Tribe of Indians) (hereinafter collectively referred to as Miami-Weas). *Pottawatomie Tribe of Indians* v. *United States*, 43 Ind. Cl. Comm. 687, 747 (1978). Appellants Pottawatomie Indians of Indiana (Docket No. 29–C) question the amount awarded them by the Commis-

[1] This case was previously before the court on the question of which tribe(s) held aboriginal title to the various lands ceded. *Strong* v. *United States*, 207 Ct.Cl. 254, 518 F. 2d 556 (1975), *cert. denied*, 423 U.S. 1015 (1975). The court affirmed the Commission except as to its determination of title to the Ouatanon enclave. *Id.* at 282, 518 F. 2d at 571. The case was remanded to the Commission on this issue and to determine the amount, if any, which the various claimants were entitled to recover.

sion. *Id.* For the reasons discussed below, we affirm, with one exception, the Commission's decision since its findings of fact are based upon substantial evidence and its conclusions of law are correct.

In 1795, appellants' ancestors ceded land in Illinois, Indiana and Ohio to the United States in the Treaty of Greenville, *supra*. The treaty also provided that the Government would give the tribes $20,000 worth of goods and perpetual annuities of $500 or $1000 per tribe. Treaty of Greenville, Article IV, 7 Stat. 49, 51. *See, Pottawatomie Tribe* v. *United States*, 43 Ind. Cl. Comm. 687, 707 (1978). After passage of the Indian Claims Commission Act (Act) in 1946, 25 U.S.C. §§ 70–70v (1976), the tribes claimed that the consideration they received for their cessions in 1795 was unconscionable within the meaning of the Act. *Id.* at § 70a(3). Consequently, they sought adequate compensation for the cessions as provided in the Act.

Initially, the Commission determined which tribes held aboriginal title to the various tracts of land ceded.[2] It also determined the land and consideration should be assessed as of the effective date of the treaty, August 3, 1795. *Strong* v. *United States*, 31 Ind. Cl. Comm. 89 (1973). The Commissioners then determined, in the decision presently before us on appeal, the value of the lands ceded, the value of consideration received by the tribes, and whether that consideration was unconscionable within 25 U.S.C. § 70a(3) (1976).

As to appellants Miami-Weas (Docket Nos. 130, 252 and 338), the Commission found that the consideration received by appellants was not unconscionable.[3] Thus, these claims

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[2] See note 1, *supra*, and *Strong* v. *United States*, 31 Ind. Cl. Comm. 89 (1973). The Commission has decided title to the Ouatanon enclave, as directed, in the decision below. No appeal was taken from that new determination. *See Pottawatomie Tribe* v. *United States*, 43 Ind. Cl. Comm. 687, 689–91 (1978).

[3] The Commission valued the lands ceded and consideration received as follows:

	Value of Cessions	Value of Consideration
Miami Tribe	$35,022.47	$33,220.00
Weas (Peoria Tribe)	$17,511.23	$11,120.00
Pottawatomies	$58,675.60	$22.100.00

The Pottawatomies were considered to have received unconscionable consideration, but not the Miamis or Weas. These determinations as to unconscionability are in line with our cases. *See, e.g., Lummi Tribe of Indians* v. *United States*, 181 Ct.Cl. 753

were dismissed. *Pottawatomie Tribe* v. *United States*, 43 Ind. Cl. Comm. 687, 747–48 (1978). We consider, with the exception of the portages discussed below, the Commission's findings of facts supported by substantial evidence in the record and conclusions of law in this regard correct.

The Commission also examined the claims of appellant Pottawatomie Indians (Docket No. 29–C) and determined that they received unconscionable consideration. Thus, payment of $58,675.60 to the Pottawatomi, less any offsets to which the Government is entitled, was ordered. *Id.* Again, with the exception of portages ceded, we affirm the decision of the Commission as supported by substantial evidence and encompassing correct conclusions of law.

As stated, both the Miami-Weas and Pottawatomie challenged the Commission's decision on various grounds. Since we affirm for substantially the reasons stated by the Commission in its opinion, 43 Ind. Cl. Comm. 687 (1978), except as to the two portages, we will limit our discussion to the issues involving these portages.[4]

(1967); *Miami Tribe of Oklahoma* v. *United States*, 150 Ct.Cl. 725, 281 F. 2d 202 (1960), *cert. denied*, 366 U.S. 924 (1961).

[4] We note briefly two contentions raised by appellants.

First, we reject summarily appellant Pottawatomie Tribe's argument that it is entitled to an increased award because of the dollar's devaluation since 1795. The court has repeatedly rejected such arguments absent specific direction by Congress to allow interest or account for the effects of inflation. *Nooksack Tribe of Indians* v. *United States*, 162 Ct. Cl. 712, 718 (1963), *cert. denied*, 375 U.S. 993 (1964). *See also*, *United States* v. *Sioux Nation of Indians*, 207 Ct. Cl. 234, 518 F. 2d 1298 (1975), *cert. denied*, 423 U.S. 1016 (1975); *United States* v. *Delaware Tribe*, 192 Ct. Cl. 385, 427 F. 2d 1218 (1970).

Second, the Miami-Wea complain that the Sioux Amendments, 25 U.S.C. § 70a (1976) *as amended by* Pub. L. No. 93–494, 88 Stat. 1499, 1500 (1974), prohibit the Commission from taking goods delivered to the tribes into account as consideration received for their cessions. In this case, the Commission determined that it could take the value of goods delivered to the Indians into account in order to determine whether the tribes received unconscionable consideration. Once the Commission determined that the consideration was unconscionable, however, it did not deduct the value of the goods from the ultimate award. That is the proper procedure under the Sioux Amendments.

Congress amended section 2 of the Indian Claims Commission Act, 25 U.S.C. § 70a, to provide that "expenditures for food, rations, or provisions shall not be deemed payments on the claim." Pub.L. No. 93–494, 88 Stat. 1499, 1500 (1974). Chief Judge Friedman, writing for this court in *Sioux Nation of Indians* v. *United States*, 220 Ct.Cl. ___, 601 F. 2d 1157 (1979), stated, "The legislative history of the 1974 amendment indicates that the amendment was intended to apply to the calculation of offsets *following an award*, and not to the initial determination whether plaintiff is entitled to recover . . ." *Id.* at 1163, note 4 (emphasis added). While the *Sioux* case involved a Fifth Amendment taking issue, we consider the statute to apply exactly

Miami-Wea Portage

The Miami-Wea portage is a two-mile strip running form Royce Area 16 to Royce Area 17 in Indiana.[5] The Commission found that the two-acre area's highest and best use was as a portage and valued it at a total of $2.50. By contrast, the Government's expert valued the land at $1500 and appellants' evidence showed the land was worth $2400. We conclude that the Commission's finding as to the value of this portage is not supported by substantial evidence, *see, Confederated Tribes of Warm Springs Reservation* v. *United States*, 177 Ct.Cl. 184 (1966), or adequate explanation. Thus, we must correct the Commission in this aspect.[6] 25 U.S.C. § 70v (1976). *See, Strong* v. *United States*, 207 Ct.Cl. 254, 518 F. 2d 556, *cert. denied*, 423 U.S. 1015 (1975).

The Commission's error must also be sufficiently material as to result in prejudicial error. 25 U.S.C. § 70s(b)(1976); *Yakima Tribe* v. *United States*, 158 Ct.Cl. 672, 695 (1962). As we will explain, while the Commission valued the Miami-Wea portage improperly, even accepting appellants' figure as correct, appellants are still not entitled to an unconscionable consideration award. Thus, we must affirm the Commission's dismissal of the Miami-Wea claims (Docket Nos. 130, 252 and 338). 25 U.S.C. § 70s(b) (1976).

The decision below found that the Miamis ceded land worth $35,022.47 for consideration of $33,220.00. The

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alike in an unconscionable consideration case. As the court stated in *Sioux*, the legislative history aptly supports this conclusion. *Id.* at 51.

The Conference Report, for instance, states that the amendments provide: "that expenditures of the United States of funds for food, rations or provisions could not be offset by the United States *against any award* of the Commission to an Indian tribe or other claimant." Conf. Rep. No. 93–1446, *reprinted in* [1974] U.S. Code. Cong. & Admin. News 6118–19. Thus, we affirm the methodology used by the Commission. The value of "food, rations or provisions" may not be deducted from an award. *Prairie Band of Pottawatomie Tribe* v. *United States*, 215 Ct.Cl. 1, 564 F. 2d 38 (1977), but the value of such goods may be considered in determining whether the Government owes any award to begin with. *Sioux Nation, supra.*

[5] The term "Royce Area" refers to numberings made by Charles C. Royce in mapping the Indian Nations. See, Royce, *Indian Land Cessions in the United States*, 18th Annual Report of the Bureau of American Ethnology (1899).

[6] Previously, we were constrained to remand all errors to the Commission for correction. *Lummi Tribe of Indians* v. *United States*, 181 Ct.Cl. 753 (1967). With the expiration of the Commission in 1978, however, Congress conferred full jurisdiction upon this court to adjudicate all aspects of these cases. 25 U.S.C. § 70v (1976). *as amended* by Pub.L. No. 94–465, § 2, 90 Stat. 1990 (1976). Thus, we have full jurisdiction to decide these matters here.

Miamis owned two-thirds of the portage and the Weas the remaining one-third. Accepting the Miami's valuation of the portage as correct, the value of their land should have been increased by $1600. In other words, their total land value should have been $36,620.80.[7] The corresponding figure for the Weas is $18,310.40.[8] Thus, the Miami-Wea lands were worth 4.6 per cent more than the Commission's evaluation.[9] This relatively minor change does not alter the Commission's conclusion that the consideration received for the ceded lands was not so grossly disproportionate as to be unconscionable. *Compare, Lummi Tribe of Indians* v. *United States*, 181 Ct.Cl. 753 (1967); *Osage Nation of Indians* v. *United States*, 119 Ct.Cl. 592, 97 F. Supp. 381, *cert. denied*, 342 U.S. 896 (1951). Consequently, the Commission's error in evaluating the portage did not result in prejudicial error and its dismissal of Docket Nos. 130, 252 and 338 is affirmed.

Pottawatomie Portage

Similarly to the Miami-Wea claim, the Commission improperly valued the Pottawatomie portage from Royce Area 16 to the Illinois River. The appellants' portage was valued at a total of $10 by the Commission, whereas the Government's and appellants' experts valued the lands at $1000 and $9600 respectively. *Pottawatomie Tribe* v. *United States*, 43 Ind. Cl. Comm. 687, 702 (1978). Since the Pottawatomies are entitled to recover, less any allowable offsets, however, their award must be adjusted to reflect the appropriate value of the portage.

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[7] $35,022.47 minus $2.50 value of portage accounted for in that figure plus the "true value" of $1600.

[8] For the Weas, they ceded land worth $17,511.23 for $11,120.00 in consideration. Increasing their figure by one-third of the $2400 yields them a new total land value of $18,310.40.

[9]

$$\frac{\$36,620.80 - \$35,022.47}{\$35,022.47} \times 100\% = 4.6\%$$

$$\frac{\$18,310.40 - \$17,511.23}{\$17,511.23} \times 100\% = 4.6\%$$

These proportions should be the same since both tribes had a constant proportional interest in the lands valued.

As we stated in note 6, *supra*, Congress gave this court full jurisdiction to deal with these Indian claims. 25 U.S.C. § 70v (1976). In this case, we see no need to create further delay by referring valuation of the Pottowatomie portage to the trial division. Rather, this court has determined the appropriate amount to add to appellants' award after an extensive review of the record, facts and applicable law.

There is a substantial number of factors which we must consider in determining the value of appellants' land, *United States* v. *Emigrant New York Indians*, 177 Ct. Cl. 263, 285 (1966), including population, accessibility, proximity to settled areas and others. The Commission properly determined that this land's highest and best use was as a passage between two enclaves. 43 Ind. Cl. Comm. 687, 737 (1978). Nonetheless, while the enclave's potential as a toll road does not have a separate value, *United States* v. *Northern Paiute Nation*, 16 Ind. Cl. Comm.215 (1965), *aff'd* 183 Ct.Cl. 321 (1968), it is worth more than the other areas where the highest and best use is subsistence farming. This is amply evidenced by the fact that even the Government estimated the value of this portage at considerably more than did the Commission, *supra*.

Examining the arguments and record in light of the relevant factors, we find that appellants' expert, in this one instance, valued the land most appropriately.[10] Hence, appellant Pottawatomie tribe's award is increased by $9600 minus the $10 which the Commission previously awarded for the portage. Thus, the Pottawatomie's total award is $68,265.60 less any offsets to which the government is entitled.

In summary, we affirm the decision of the Commission except as to the value of the portage in Docket No. 29–C. The Miami-Wea's portage was improperly valued, but since no prejudicial error resulted, the dismissal of Dockets Nos.

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[10] All told, the Commission's basic error was in using the same procedure to value portages as it did for farmland. *See, Pottawatomie Tribe* v. *United States*, 43 Ind. Cl. Comm. 687, 705 (1978). Even the Commission, however, found that appellants' portage had some strategic value. *Id.* at 737. Since appellants' expert took this factor into account, it is a better figure to use than the Government's. The appellee's expert discounted the values by too much for this portage. *Id.* at 699, 704. The flaw which the Commission found in the tribe's expert's valuation as to the subsistence farming tracts (i.e., that the acres he compared appellants' land with were more highly populated), does not have such an adverse effect upon the valuation of the portages.

130, 252 and 338, is affirmed. The Pottawatomie portage also was value improperly and they are entitled to an additional $9600 making their total award $68,265.60 less any offsets allowable to the government. Accordingly, upon thorough consideration of the record, parties' submissions, and after oral argument, we affirm the decision of the Indian Claims Commission except as to the Pottawatomie portage in Docket No. 29–C. Appellant's award in Docket No. 29–C is hereby modified: Appellants are awarded $68,265.60 less any offsets to which the Government is entitled.

Additionally, the Commission's order that Docket No. 29–C proceed to "a determination of the amount of any gratuitous offsets allowable," 43 Ind. Cl. Comm. 687, 748 (1978), is modified under the new statutes, see note 6, *supra*. Hence, this case is referred to the trial division under Rule 131 to determine the amount, if any, of gratuitous offsets to which the Government is entitled.

APPENDIX "B"

TREATY OF GREENVILLE, 7 Stat. 49, BETWEEN THE WYANDOT, DELAWARE, SHAWNEE, OTTAWA, CHIPPEWA, POTAWATOMI, MIAMI, EEL RIVER, WEA, KICKAPOO, PIANKESHAW AND KASKASKIA TRIBES OF INDIANS AND THE UNITED STATES OF AMERICA

GEORGE WASHINGTON
President Of The United States Of America

To All To Whom These Presents Shall Come, Greting.

Whereas a Treaty of Peace and Friendship between the United States of America and the Tribes of Indians called the Wyandots, Delawares, Shawanoes, Ottawas, Chipewas, Potawatimes, Miamis, Eel River, Weea's, Kickapoos, Piankashaws, and Kaskaskias, was made and concluded on the Third day of August one thousand seven hundred and ninety five by Anthony Wayne, Major General Commanding the Army of the United States, duly authorized thereto, on the one part, and the Sachems and war chiefs of the before mentioned Nations and Tribes of Indians whose names are thereunto signed on the other part: which Treaty is in the form and words following viz:

49 A TREATY OF PEACE

Between the United States of America and the tribes of Indians, called the Wyandots, Delawares, Shawanoes, Ottawas, Chipewas, Putawatimes, Miamis, Eel-river, Waea's, Kickapoos, Piankashaws, and Kaskaskias.

To put an end to a destructive war, to settle all controversies, and to restore harmony and a friendly intercourse between the said United States, and Indian tribes: Anthony Wayne, major-general, commanding the army

of the United States, and sole commissioner for the good purposes above-mentioned, and the said tribes of Indians, by their Sachems, chiefs and warriors, met together at Greeneville, the Head quarters of the said army, have agreed on the following articles, which, when ratified by the President, with the advice and consent of the Senate of the United States, shall be binding on them and the said Indian tribes.

ARTICLE I.

Henceforth all hostilities shall cease; peace is hereby established, and shall be perpetuated; and a friendly intercourse shall take place, between the said United States and Indian tribes.

ARTICLE II.

All prisoners shall on both sides be restored. The Indians, prisoners to the United States, shall be immediately set at liberty. The people of the United States, still remaining prisoners among the Indians, shall be delivered up in ninety days from the date hereof, to the general or commanding officer at Greeneville, Fort Wayne or Fort Defiance; and ten chiefs of the said tribes shall remain at Greeneville as hostages, until the delivery of the prisoners shall be effected.

ARTICLE III.

The general boundary line between the lands of the United States, and the lands of the said Indian tribes, shall begin at the mouth of Cayahoga river, and run thence up the same the portage between that and the Tuscarawas branch of the Muskingum; thence down that branch to the crossing place above Fort Lawrence; thence westerly to a fork of that branch of the great Miami river running into the Ohio, at or near which fork stood Loromie's store, and where commences the portage between the Miami of the Ohio, and St. Mary's river, which is a branch

of the Miami, which runs into Lake Erie; thence a westerly course to Fort Recovery, which stands on a branch of the Wabash; then south-westerly in a direct line to the Ohio, so as to intersect that river opposite the mouth of Kentucke or Cuttawa river. And in consideration of the peace now established; of the goods formerly received from the United States; of those now to be delivered, and of the yearly delivery of goods now stipulated to be made hereafter, and to indemnify the United States for the injuries and expenses they have sustained during the war; the said Indian tribes do hereby cede and relinquish forever, all their claims to the lands lying eastwardly and southwardly of the general boundary line now described; and these lands, or any part of them, shall never hereafter be made a cause of pretence, on the part of the said tribes or any of them, of war or injury to the United States, or any of the people thereof.

[50] And for the same considerations, and as an evidence of the returning friendship of the said Indian tribes, of their confidence in the United States, and desire to provide for their accommodation, and for that convenient intercourse which will be beneficial to both parties, the said Indian tribes do also cede to the United States the following pieces of land; to wit. (1.) One piece of land six miles square at or near Loromie's store before mentioned. (2.) One piece two miles square at the head of the navigable water or landing on the St. Mary's river, near Girty's town. (3.) One piece six miles square at the head of the navigable water of the Au-Glaize river. (4.) One piece six miles square at the confluence of the Au-Glaize and Miami rivers, where Fort Defiance now stands. (5.) One piece six miles square at or near the confluence of the rivers St. Mary's and St. Joseph's, where Fort Wayne now stands, or near it. (6.) One piece two miles square on the Wabash river at the end of the portage from the Miami of the lake, and about eight miles westward from Fort Wayne. (7.) One piece six miles square at the Ouatanon or old Weea towns on the Wabash river. (8.) One piece twelve miles square at the British fort on

the Miami of the lake at the foot of the rapids. (9.) One piece six miles square at the mouth of the said river where it empties into the Lake. (10.) One piece six miles square upon Sandusky lake, where a fort formerly stood. (11.) One piece two miles square at the lower rapids of Sandusky river. (12.) The post of Detroit and all the land to the north, the west and the south of it, of which the Indian title has been extinguished by gifts or grants to the French or English governments: and so much more land to be annexed to the district of Detroit as shall be comprehended between the river Rosine on the south, lake St. Clair on the north, and a line, the general course whereof shall be six miles distant from the west end of Lake Erie, and Detroit river. (13.) The post of Michillimackinac, and all the land on the island, on which that post stands, and the main land adjacent, of which the Indian title has been extinguished by gifts or grants to the French or English governments; and a piece of land on the main to the north of the island, to measure six miles on Lake Huron, or the streight between lakes Huron and Michigan, and to extend three miles back from the water of the lake or streight, and also the island DeBois Blanc, being an extra and voluntary gift of the Chipewa nation. (14.) One piece of land six miles square at the mouth of Chikago river emptying into the southwest end of Lake Michigan, where a fort formerly stood. (15.) One piece twelve miles square at or near the mouth of the Illinois river, emptying into the Mississippi. (16.) One piece six miles square at the old Piorias fort and village, near the south end of the Illinois lake on said Illinois river. And whenever the United States shall think proper to survey and mark the boundaries of the lands hereby ceded to them, they shall give timely notice thereof to the said tribes of Indians, that they may appoint some of their wise chiefs to attend and see that the lines are run according to the terms of this treaty.

And the said Indian tribes will allow to the people of the United States a free passage by land and by water,

as one and the other shall be found convenient, through their country, along the chain of posts herein before mentioned; that is to say, from the commencement of the portage aforesaid at or near Loromie's store, thence along said portage to the St. Mary's, and down the same to Fort Wayne, and then down the Miami to lake Erie: again from the commencement of the portage at or near Loromie's store along the portage from thence to the river Au-Glaize, and down the same to its junction with the Miami at Fort Defiance: again from the commencement of the portage aforesaid, to Sandusky river, and down the same to Sandusky bay and lake Erie, and from Sandusky to the post which shall be taken at or near the foot of the rapids of the Miami [51] of the lake: and from thence to Detroit. Again from the mouth of Chikago, to the commencement of the portage, between that river and the Illinois, and down the Illinois river to the Mississippi, also from Fort Wayne along the portage aforesaid which leads to the Wabash, and then down the Wabash to the Ohio. And the said Indian tribes will also allow to the people of the United States the free use of the harbours and mouths of rivers along the lake adjoining the Indian lands, for sheltering vessels and boats, and liberty to land their cargoes where necessary for their safety.

ARTICLE IV.

In consideration of the peace now established and of the cessions and relinquishments of lands made in the preceding article by the said tribes of Indians, and to manifest the liberality of the United States, as the great means of rendering this peace strong and perpetual; the United States relinquish their claims to all other Indian lands northward of the river Ohio, eastward of the Mississippi, and westward and southward of the Great Lakes and the waters uniting them, according to the boundary line agreed on by the United States and the king of Great-Britain, in the treaty of peace made between them in the year 1783. But from this relinquishment by the United

States, the following tracts of land, are explicitly excepted. 1st. The tract of one hundred and fifty thousand acres near the rapids of the river Ohio, which has been assigned to General Clark, for the use of himself and his warriors. 2d. The post of St. Vincennes on the river Wabash, and the lands adjacent, of which the Indian title has been extinguished. 3d. The lands at all other places in possession of the French people and other white settlers among them, of which the Indian title has been extinguished as mentioned in the 3d article; and 4th. The post of fort Massac towards the mouth of the Ohio. To which several parcels of land so excepted, the said tribes relinquish all the title and claim which they or any of them may have.

And for the same considerations and with the same views as above mentioned, the United States now deliver to the said Indian tribes a quantity of goods to the value of twenty thousand dollars, the receipt whereof they do hereby acknowledge; and henceforward every year forever the United States will deliver at some convenient place northward of the river Ohio, like usefull goods, suited to the circumstances of the Indians, of the value of nine thousand five hundred dollars; reckoning that value at the first cost of the goods in the city or place in the United States, where they shall be procured. The tribes to which those goods are to be annually delivered and the proportions in which they are to be delivered, are the following.

1st. To the Wyandots, the amount of one thousand dollars. 2d. To the Delawares, the amount of one thousand dollars. 3d. To the Shawanese, the amount of one thousand dollars. 4th. To the Miamis, the amount of one thousand dollars. 5th. To the Ottawas, the amount of one thousand dollars. 6th. To the Chippewas, the amount of one thousand dollars. 7th. To the Putawatimes, the amount of one thousand dollars. 8th. And to the Kickapoo, Weea, Eelriver, Piankashaw and Kaskaskias tribes, the amount of five hundred dollars each.

Provided, That if either of the said tribes shall hereafter at an annual delivery of their share of the goods aforesaid, desire that a part of their annuity should be furnished in domestic animals, implements of husbandry, and other utensils convenient for them, and in compensation to useful artificers who may reside with or near them, and be employed for their benefit, the same shall at the subsequent annual deliveries be furnished accordingly.

[52] ARTICLE V.

To prevent any misunderstanding about the Indian lands relinquished by the United States in the fourth article, it is now explicitly declared, that the meaning of that relinquishment is this: The Indian tribes who have a right to these lands, are quietly to enjoy them, hunting, planting, and dwelling thereon so long as they please, without any molestation from the United States; but when those tribes, or any of them, shall be disposed to sell their lands, or any part of them, they are to be sold only to the United States; and untill such sale, the United States will protect all the said Indian tribes in the quiet enjoyment of their lands against all citizens of the United States, and against all other white persons who intrude upon the same. And the said Indian tribes again acknowledge themselves to be under the protection of the said United States and no other power whatever.

ARTICLE VI.

If any citizen of the United States, or any other white person or persons, shall presume to settle upon the lands now relinquished by the United States, such citizen or other person shall be out of the protection of the United States; and the Indian tribe on whose land the settlement shall be made, may drive off the settler, or punish him in such manner as they shall think fit; and because such settlements made without the consent of the United States, will be injurious to them as well as to the Indians, the

United States shall be at liberty to break them up, and remove and punish the settlers as they shall think proper, and so effect that protection of the Indian lands herein before stipulated.

ARTICLE VII.

The said tribes of Indians, parties to this treaty, shall be at liberty to hunt within the territory and lands which they have now ceded to the United States, without hindrance or molestation, so long as they demean themselves peaceably, and offer no injury to the people of the United States.

ARTICLE VIII.

Trade shall be opened with the said Indian tribes; and they do hereby respectively engage to afford protection to such persons, with their property, as shall be duly licensed to reside among them for the purpose of trade, and to their agents and servants; but no person shall be permitted to reside at any of their towns or hunting camps as a trader, who is not furnished with a license for that purpose, under the hand and seal of the superintendent of the department north-west of the Ohio, or such other person as the President of the United States shall authorise to grant such licenses; to the end, that the said Indians may not be imposed on in their trade. And if any licensed trader shall abuse his privilege by unfair dealing, upon complaint and proof thereof, his license shall be taken from him, and he shall be further punished according to the laws of the United States. And if any person shall intrude himself as a trader, without such license, the said Indians shall take and bring him before the superintendent or his deputy, to be dealt with according to law. And to prevent impositions by forged licenses, the said Indians shall at least once a year give information to the superintendent, or his deputies, of the names of the traders residing among them.

ARTICLE IX.

Lest the firm peace and friendship now established should be interrupted by the misconduct of individuals, the United States, and the said Indian tribes agree, that for injuries done by individuals on either side, [53] no private revenge or retaliation shall take place; but instead thereof, complaint shall be made by the party injured, to the other: By the said Indian tribes, or any of them, to the President of the United States, or the superintendant by him appointed; and by the superintendant or other person appointed by the President, to the principal chiefs of the said Indian tribes, or of the tribe to which the offender belongs; and such prudent measures shall then be pursued as shall be necessary to preserve the said peace and friendship unbroken, until the Legislature (or Great Council) of the United States, shall make other equitable provision in the case, to the satisfaction of both parties. Should any Indian tribes meditate a war against the United States or either of them, and the same shall come to the knowledge or the before-mentioned tribes, or either of them, they do hereby engage to give immediate notice thereof to the general or officer commanding the troops of the United States, at the nearest post. And should any tribe, with hostile intentions against the United States, or either of them, attempt to pass through their country, they will endeavor to prevent the same, and in like manner give information of such attempt, to the general or officer commanding, as soon as possible, that all causes of mistrust and suspicion may be avoided between them and the United States. In like manner the United States shall give notice to the said Indian tribes of any harm that may be meditated against them, or either of them, that shall come to their knowledge; and do all in their power to hinder and prevent the same, that the friendship between them may be uninterrupted.

ARTICLE X.

All other treaties heretofore made between the United States and the said Indian tribes, or any of them, since the treaty of 1783, between the United States and Great Britain, that come within the purview of this treaty, shall henceforth cease and become void.

[7 Stat. 49, 53]

In Testimony whereof, the said Anthony Wayne, and the Sachems and War-Chiefs of the before-mentioned Nations and Tribes of Indians, have hereunto set their Hands, and affixed their Seals. Done at Greeneville, in the Territory of the United States, north-west of the river Ohio, on the third Day of August, one thousand and seven hundred and ninety-five.

ANTHONY WAYNE.

Joseph
Wyandots.
Tar-he, (or Crane)
J. Williams, jun.
Tey-yagh-taw,
Ha-ro-en-you,
(or half King's Son)
Te-haaw-to-rens,
Aw-me-yee-ray,
Staye-tah,
Daugh-shut-tay-ah,
Sha-aw-run-the,
Sha-tey-ya-ron-yah,
(or Leather Lips)

Delawares.

Teta-boksh-ke,
(or Grand Glaize King)
Le-man-tan-quis,
(or Black King)
Wa-bat-thoe,
Magh-pi-way,
(or Red Feather)

40-A

Kik-tha-we-nund,
(or Anderson)
Bu-kon-ge-he-las,
Pee-kee-lund,
Welle-baw-kee-lund,
Pee-kee-tele-mund,
(or Thomas Adams)
Kish-ko-pe-kund,
(or Captain Buffaloe)
Ame-na-he-han,
(or Captain Crow)
Que-Shawk-say,
(or George Washington)
Wey Win-quis,
(or Billy Siscomb)
Moses,

Shawanoes.

Mis-qua-coo-na-caw,
(or Red Pole)
Cut-the-we-ka-saw,
(or Black Hoof)
Kay-se-wa-e-se-kah,

Wey-tha-pa-mat-tha,
Nia-nym-se-ka,
Way-the-ah,
(or Long Shanks)
Wey-a-pier-sen-waw,
(or Blue Jacket)
Ne-que, taugh-aw,
Hah-goo-see-kaw,
(or Captain Reed)

Ottawas.

Au-goosh-away,
Kee-no-sha-meek,
La Malice,
Ma-chi-we-tah,
Tho-wo-na-wa
Se-caw,

[54] *Chippewas.*

Mash-i-pi-nash-i-wish,
(or Bad Bird)
Nah-sho-ga-she,
(from Lake Superior)
Ka-tha-wa-sung,
Ma-sass,
Ne-me-kass,
(or Little Thunder)
Pe-shaw-kay,
(or Young Ox)
Nan-guey,
Mee-ne-doh-gee-sogh,
Pee-wan-she-me-nogh,
Wey-me-gwas,
Gob-mo-a-tick,

Ottawa.

Che-go-nickska.
(an Ottawa from Sandusky)

Putawatames of the River Saint Joseph.

Thu-pe-ne-bu,
Naw-ac,
(for himself and brother A-si-me-the)
Ne-nan-se-ka,
Kee-sass,
(or Sun)
Ka-ba-ma-saw,
(for himself and brother Chi-sau-gan)
Sug-ga-nunk,
Wap-me-me,
(or White Pigeon)
Wa-che-ness,
(for himself and brother Pe-da-go-shok)
Wab-shi-caw-naw,
La Chasse,
Me-she-ge-the-nogh,
(for himself and brother Wa-wa-sek)
Hin-go-swash,
A-ne-wa-saw,
Naw-budgh,
Mis-se-no-go-maw,
Wa-we-eg-she,
Thaw-me,
(or le Blanc)
Gee-que,
(for himself and brother She-win-se)

Putawatames of Huron.

O-ki-a,
Cha-mung,
Se-ga-ge-wan,
Na-naw-me,
(for himself and brother Amgin)
Mar-chand,
We-na-me-ac,

Miamis.

Na-goh-quan-gogh,
(or le Gris)
Me-she-kin-nogh-quoh,
(or Little Turtle)

Miamis and Eel-River.

Pee-jee-wa,
(or Richard Ville)
Coch-ke-pogh-togh,

Eel-River Tribe.

Sha-me-kin-ne-sa,
(or Soldier)

Miamis.

Wa-pa-man-gwa,
(or the White Loon)

Weea's, for themselves and the Piankashaws.

A-ma-cun-sa,
(or Little Beaver)
A-coo-la-tha,
(or Little Fox)
Francis,

Kickapoos and Kaskaskias.

Kee-aw-hah,
Ne-migh-ka,
(or Josey Renard)
Pai-kee-ka-nogh,

Delawares of Sandusky.

Haw-kin-pum-is-ka,
Pey-a-mawk-say,
Reyn-tue-co-
(of the Six Nations, living at Sandusky)

In presence of, (the word "goods" in the 6th line of the 3d article; the word "before" in the 26th line of the 3d article; the words "five hundred" in the 10th line of the 4th article; and the word "Piankashaw" in the 14th line of the 4th article, being first interlined.)

H. DeButts, first A. D. C. and Sec'y to M. G. Wayne, Wm. H. Harrison, Aid-de-camp to M. G. Wayne, T. Lewis, Aid-de-camp to M. G. Wayne. James O'Hara, Quarter-Master Genl. John Mills, Major of Infantry, and Adj. Genl. Caleb Swan, P. M. T. U. S. Geo. Demter, Lieut. Artillery. Vigo. P. fri La Fontaine, Ant. Lasselle. H. Laselle. Jn. Beau Bien. David Jones, Chaplain U.S. L. Lewis Beufait. R. Lachambre Jas. Pepon, Baties Coutien, P. Navarre.

Sworn Interpreters.

Wm. Wells, Jacques Lasselle, M. Morins, Bt. Sans Crainte, Christopher Miller, Robert Wilson, Abraham x Williams, Isaac x Zane.

To the Indian names are subjoined a mark and seal.

Now know Ye, that I having seen and considered the said Treaty, do by and with the advice and consent of the Senate of the United States, Accept, Ratify, and Confirm the same, and every article and clause thereof. In Testimony whereof, I have caused the Seal of the United States to be hereunto affixed and signed the same with my hand.

Given at the City of Philadelphia the Twenty second day of December, in the year of our Lord one
[Seal] thousand seven hundred and ninety five, and in the Twentieth year of the Sovereignty and Independence of the United States.

G. Washington.

By the President:
Timothy Pickering.

APPENDIX "C"

EXCERPTS FROM THE INDIAN CLAIMS COMMISSION ACT
60 Stat. 1049 et seq., 25 U.S.C. § 70 et seq.

§ 1 (25 U.S.C. § 70) Creation of Commission
§ 2 (25 U.S.C. § 70a) Jurisdiction; claims considered; Offsets and counterclaims
§ 3 [as amended] (25 U.S.C. § 70b) Members of Commission-Appointment Qualifications-Oath
§ 12 (25 U.S.C. § 70k) Limitation of Time for presenting claim
§ 19 (25 U.S.C. § 70r) Final Determination of Commission
§ 20 (25 U.S.C. § 70s) Review by Court of Claims and Supreme Court

§ 70. Creation of Commission

There is created and established an Indian Claims Commission, referred to in this chapter as the Commission. Aug. 13, 1946, c. 959, § 1, 60 Stat. 1049.

§ 70a. Jurisdiction; claims considered; offsets and counterclaims

The Commission shall hear and determine the following claims against the United States on behalf of any Indian tribe, band, or other identifiable group of American Indians residing within the territorial limits of the United States or Alaska: (1) claims in law or equity arising under the Constitution, laws, treaties of the United States, and Executive orders of the President; (2) all other claims in law or equity, including those sounding in tort, with respect to which the claimant would have been entitled to sue in a court of the United States if the United States was subject to suit; (3) claims which would result if the treaties, contracts, and agreements between the claimant and the United States were revised on the ground of

fraud, duress, unconscionable consideration, mutual or unilateral mistake, whether of law or fact, or any other ground cognizable by a court of equity; (4) claims arising from the taking by the United States, whether as the result of a treaty of cession or otherwise, of lands owned or occupied by the claimant without the payment for such lands of compensation agreed to by the claimant; and (5) claims based upon fair and honorable dealings that are not recognized by any existing rule of law or equity. No claim accruing after August 13, 1946, shall be considered by the Commission.

All claims under this chapter may be heard and determined by the Commission notwithstanding any statute of limitations or laches, but all other defenses shall be available to the United States.

In determining the quantum of relief the Commission shall make appropriate deductions for all payments made by the United States on the claim, and for all other offsets, counterclaims, and demands that would be allowable in a suit brought in the Court of Claims under section 250 of Title 28; the Commission may also inquire into and consider all money or property given to or funds expended gratuitously for the benefit of the claimant and if it finds that the nature of the claim and the entire course of dealings and accounts between the United States and the claimant in good conscience warrants such action, may set off all or part of such expenditures against any award made to the claimant, except that it is declared to be the policy of Congress that monies spent for the removal of the claimant from one place to another at the request of the United States, or for agency or other administrative, educational, health or highway purposes, or for expenditures made prior to the date of the law, treaty or Executive Order under which the claim arose, or for expenditures made pursuant to sections 461, 462, 463, 464, 465, 466-470, 471-473, 474, 475, 476-478 and 479 of this title, save expenditures made under section 465 of this title, or for expenditures under any emergency appropriation or allotment made subsequent to March 4, 1933, and

generally applicable throughout the United States for relief in stricken agricultural areas, relief from distress caused by unemployment and conditions resulting therefrom, the prosecution of public work and public projects for the relief of unemployment or to increase employment, and for work relief (including the Civil Works Program) shall not be a proper offset against any award. Aug. 13, 1946, c. 959, § 2, 60 Stat. 1050.

§ 70b. Members of Commission—Appointment; qualifications; oath

(a) The Commission shall consist of five Commissioners who shall be appointed by the President, by and with the advice and consent of the Senate. The President shall designate one Commissioner as Chairman. At all times at least three Commissioners shall be members of the bar of the Supreme Court of the United States in good standing. No more than three Commissioners shall be of the same political party. Each Commissioner shall take an oath to support the Constitution of the United States and to discharge faithfully the duties of his office.

The persons holding the offices of Chief Commissioner and Associate Commissioner of the Indian Claims Commission on April 9, 1967, shall continue in office serving as Commissioners of the Indian Claims Commission until June 30, 1968, unless prior to that date the President shall appoint them pursuant to this section.

(b) The Commissioners shall hold office during their good behavior until the dissolution of the Commission as provided in this chapter. Vacancies shall be filled in the same manner as the original appointments. Members of the Commission may be removed by the President for cause after notice and opportunity to be heard.

(c) No Commissioner shall engage in any other business, vocation, or employment during his term of office nor shall he, during his term of office or for a period of two years thereafter, represent any Indian tribe,

band, or group in any matter whatsoever, or have any financial interest in the outcome of any tribal claim. Any person violating the provisions of this subsection shall be fined not more than $10,000 or imprisoned not more than two years, or both.

Quorum

(d) Three Commissioners shall constitute a quorum, and the agreement of three Commissioners shall be necessary to any and all determinations for the transaction of the business of the Commission, and, if there be a quorum, no vacancy shall impair or affect the business of the Commission, or its determinations.

§ 70k. Limitation of time for presenting claims

The Commission shall receive claims for a period of five years after August 13, 1946, and no claim existing before such date but not presented within such period may thereafter be submitted to any court or administrative agency for consideration, nor will such claim thereafter be entertained by the Congress. Aug. 13, 1946, c. 959, § 12, 60 Stat. 1052.

§ 70r. Final determinations of Commission

The final determination of the Commission shall be in writing, shall be filed with its clerk, and shall include (1) its findings of the facts upon which its conclusions are based; (2) a statement (a) whether there are any just grounds for relief of the claimant and, if so, the amount thereof; (b) whether there are any allowable offsets, counterclaims, or other deductions, and, if so, the amount thereof; and (3) a statement of its reasons for its findings and conclusions. Aug. 13, 1946, c. 959, § 19, 60 Stat. 1054.

§ 70s. Review by Court of Claims and Supreme Court

(a) In considering any claim the Commission at any time may certify to the Court of Claims any definite and distinct questions of law concerning which instructions are desired for the proper disposition of the claim; and thereupon the Court of Claims may give appropriate instructions on the questions certified and transmit the same to the Commission for its guidance in the further consideration of the claim.

(b) When the final determination of the Commission has been filed with the clerk of said Commission the clerk shall give notice of the filing of such determination to the parties to the preceeding in manner and form as directed by the Commission. At any time within three months from the date of the filing of the determination of the Commission with the clerk either party may appeal from the determination of the Commission to the Court of Claims, which Court shall have exclusive jurisdiction to affirm, modify, or set aside such final determination. In similar manner and with like effect either party may appeal to the Court of Claims from any interlocutory determination by the Commission establishing the liability of the United States notwithstanding such determination is not for any reason whatever final as to the amount of recovery; and any such interlocutory appeal shall be taken on or before January 1, 1961, or three months from such interlocutory determination, whichever is later: *Provided,* That the failure of either party to appeal from any such interlocutory determination shall not constitute a waiver of its right to challenge such interlocutory determination in any appeal from any final determination subsequently made in the case. On said appeal the Court shall determine whether the findings of fact of the Commission are supported by substantial evidence, in which event they shall be conclusive, and also whether the conclusions of law, including any conclusions respecting "fair and honorable dealings", where applicable, stated by the Commission as a basis for its final determination, are valid

and supported by the Commission's findings of fact. In making the foregoing determinations, the Court shall review the whole record or such portions thereof as may be cited by any party, and due account shall be taken of the rule of prejudicial error. The Court may at any time remand the cause to the Commission for such further proceedings as it may direct, not inconsistent with the foregoing provisions of this section. The Court shall promulgate such rules of practice as it may find necessary to carry out the foregoing provisions of this section.

(c) Determinations of questions of law by the Court of Claims under this section shall be subject to review by the Supreme Court of the United States in the manner prescribed by section 288 of Title 28. Aug. 13, 1946, c. 959, § 20, 60 Stat. 1054; Sept. 8, 1960, Pub.L. 86-722, 74 Stat. 829.

APPENDIX "D"

Proclamation of 1763
October 7, 1763

(Annual Register for 1763, **pp. 208-13)**

The Proclamation of 1763, forbidding white settlement beyond a line drawn roughly along the crest of the Appalachians, was a carefully planned element in British imperial policy. It was designed to place North American possessions on a more stable footing following the defeat of the French in the Great War for Empire. The Indians of the interior, who regarded themselves as allies rather than subjects of the French, were startled to hear rumors that the English now claimed sovereignty over their territory. During the summer of 1763, the Indians – now stirred to action – seized post after post on the frontier from British troops. The British foreign ministry, under the leadership of Charles Wyndham, Second Earl of Egremont, one of the King's two principal Secretaries of State, sought to reassure the Indians that their lands were secure and that they would be acquired by the English through fair purchase only. The Proclamation, against which American frontiersmen would later rail, was vital in safeguarding the security of the newly won empire. While the Proclamation proved in fact, as George Washington phrased it in 1767, a "temporary expedient to quiet the minds of the Indians," it was also an attempt to develop a more civilized policy toward the Indian.

By The King A Proclamation

WHEREAS WE HAVE taken into our royal consideration the extensive and valuable acquisitions in America secured to our Crown by the late definitive treaty of peace

concluded at Paris the 10th day of February last; and being desirous that all our loving subjects, as well of our kingdom as of our colonies in America, may avail themselves, with all convenient speed, of the great benefits and advantages which must accrue therefrom to their commerce, manufactures, and navigation; we have thought fit, with the advice of our Privy Council, to issue this our Royal Proclamation, hereby to publish and declare to all our loving subjects that we have, with the advice of our said Privy Council, granted our letters patent under our Great Seal of Great Britain, to erect within the countries and islands ceded and confirmed to us by the said treaty, four distinct and separate governments, styled and called by the names of Quebec, East Florida, West Florida, and Grenada, and limited and bounded as follows, viz:

First, the government of Quebec, bounded on the Labrador coast by the river St. John, and from thence by a line drawn from the head of that river, through the lake St. John, to the South end of the lake Nipissim; from whence the said line, crossing the river St. Lawrence and the Lake Champlain in 45 degrees of North latitude, passes along the High Lands, which divide the rivers that empty themselves into the said river St. Lawrence, from those which fall into the sea; and also along the North coast of the Bayes des Chaleurs, and the coast of the Gulph of St. Lawrence to Cape Rosieres, and from thence crossing the mouth of the river St. Lawrence by the West end of the island of Anticosti, terminates at the aforesaid river St. John.

Secondly, The governments of East Florida, bounded to the Westward by the Gulph of Mexico and the Apalachicola river; to the Northward, by a line drawn from that

part of the said river where the Catahoochee and Flint rivers meet, to the source of St. Mary's river, and by the course of the said river to the Atlantic Ocean; and to the East and South by the Atlantic Ocean, and the Gulph of Florida, including all islands within six leagues of the sea coast.

Thirdly, The government of West Florida, bounded to the Southward by the Gulph of Mexico, including all islands within six leagues of the coast from the river Apalachicola to lake Pontchartrain; to the Westward by the said lake, the lake Maurepas, and the river Mississippi; to the Northward, by a line drawn due East from that part of the river Mississippi which lies in thirty-one degrees North latitude to the river Apalachicola, or Catahoochee; and to the Eastward by the said river.

Fourthly, The government of Grenada, comprehending the island of that name, together with the Grenadines, and the islands of Dominico, St. Vincent, and Tobago.

And to the end that the open and free fishery of our subjects may be extended to, and carried on upon the coast of Labrador and the adjacent islands, we have thought fit . . . to put all that coast, from the river St. John's to Hudson's Streights, together with the islands of Anticosti and Madelane, and all other smaller islands lying upon the said coast, under the care and inspection of our governor of Newfoundland.

We have also . . . thought fit to annex the islands of St. John and Cape Breton, or Isle Royale, with the lesser islands adjacent thereto, to our government of Nova Scotia.

We have also . . . annexed to our province of Georgia, all the lands lying between the rivers Atamaha and St. Mary's.

And . . . we have . . . given express power and direction to our governors of our said colonies respectively, that so soon as the state and circumstances of the said colonies will admit thereof, they shall, with the advice and consent of the members of our council, summon and call general assemblies within the said governments respectively, in such manner and form as is used and directed in those colonies and provinces in America, which are under our immediate government; and we have also given power to the said governors, with the consent of our said councils, and the representatives of the people, so to be summoned as aforesaid, to make, constitute, and ordain laws, statutes and ordinances for the public peace, welfare, and good government of our said colonies, and of the people and inhabitants thereof, as near as may be, agreeable to the laws of England, and under such regulations and restrictions as are used in other colonies; and in the mean time, and until such assemblies can be called as aforesaid, all persons inhabiting in, or resorting to, our said colonies, may confide in our royal protection for the enjoyment of the benefit of the laws of our realm of England: for which purpose we have given power under our great seal to the governors of our said colonies respectively, to erect and constitute, with the advice of our said councils respectively, courts of judicature and public justice within our said colonies, for the hearing and determining all causes as well criminal as civil, according to law and equity, and as near as may be, agreeable to the laws of England, with liberty to all persons who may think themselves aggrieved by the sentence of such courts, in all civil cases, to appeal, under the usual limitations and restrictions, to us, in our privy council.

And whereas it is just and reasonable, and essential to

our interest and the security of our colonies, that the several nations or tribes of Indians with whom we are connected, and who live under our protection, should not be molested or disturbed in the possession of such parts of our dominions and territories as, not having been ceded to or purchased by us, are served to them, or any of them, as their hunting-grounds; we do therefore, with the advice of our Privy Council, declare it to be our royal will and pleasure, that no Governor or commander in chief, in any of our colonies of Quebec, East Florida, or West Florida, do presume upon any pretence whatever, to grant warrants of survey, or pass any patents for lands beyond the bounds of their respective governments, as described in their commissions; as also that no Governor or commander in chief of our other colonies or plantations in America do presume for the present, and until our further pleasure be known, to grant warrants of survey or pass patents for any lands beyond the heads or sources of any of the rivers which fall into the Atlantic Ocean from the west or northwest; or upon any lands whatever, which, not having been ceded to or purchased by us, as aforesaid, are reserved to the said Indians, or any of them.

And we do further declare it to be our royal will and pleasure, for the present as aforesaid, to reserve under our sovereignty, protection, and dominion, for the use of the said Indians, all the land and territories not included within the limits of our said three governments, or within the limits of the territory granted to the Hudson's Bay Company; as also all the land and territories lying to the westward of the sources of the rivers which fall into the sea from the west and northwest as aforesaid; and we do hereby strictly forbid, on pain of our displeasure, all our loving subjects from making any purchases or settlements whatever,

or taking possession of any of the lands above reserved without our special leave and license for that purpose first obtained.

And we do further strictly enjoin and require all persons whatever, who have either wilfully or inadvertently seated themselves upon any lands within the countries above described, or upon any other lands which, not having been ceded to or purchased by us, are still reserved to the said Indians as aforesaid, forthwith to remove themselves from such settlements.

And whereas great frauds and abuses have been committed in the purchasing lands of the Indians, to the great prejudice of our interests, and to the great dissatisfaction of the said Indians; in order, therefore, to prevent such irregularities for the future, and to the end that the Indians may be convinced of our justice and determined resolution to remove all reasonable cause of discontent, we do, with the advice of our Privy Council, strictly enjoin and require, that no private person do presume to make any purchase from the said Indians of any lands reserved to the said Indians within those parts of our colonies where we have thought proper to allow settlement; but that if at any time any of the said Indians should be inclined to dispose of the said lands, the same shall be purchased only for us, in our name, at some public meeting or assembly of the said Indians, to be held for that purpose by the Governor or commander in chief of our colony respectively within which they shall lie: and in case they shall lie within the limits of any proprietary government, they shall be purchased only for the use and in the name of such proprietaries, conformable to such directions and instructions as we or they shall think proper to give for that purpose. And we do, by the advice of our Privy Council, declare and enjoin, that the trade with

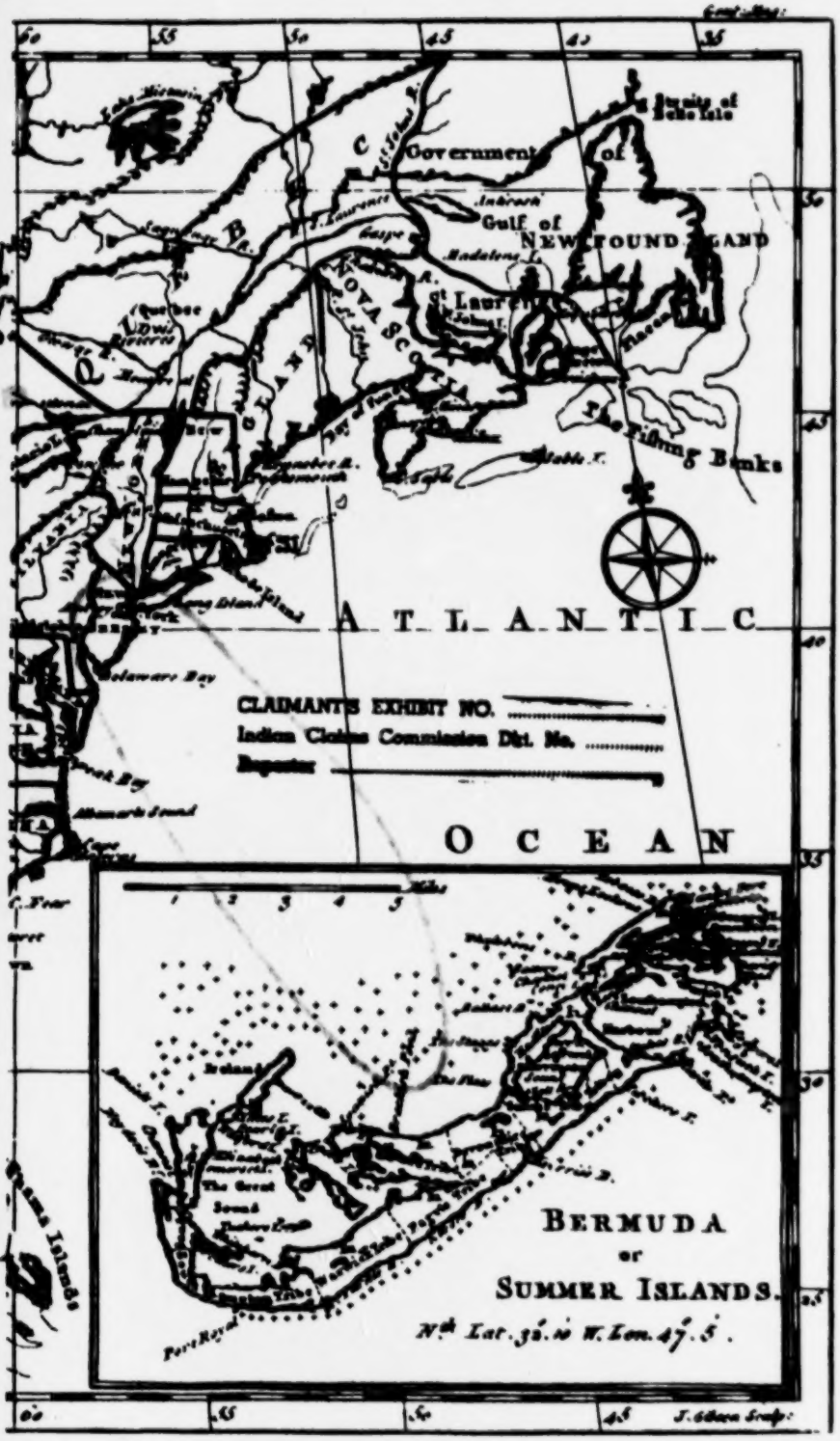
the said Indians shall be free and open to all our subjects whatever, provided that every person who may incline to trade with the said Indians do take out a license for carrying on such trade, from the Governor or commander in chief of any of our colonies respectively where such person shall reside, and also give security to observe such regulations as we shall at any time think fit, by ourselves or commissaries to be appointed for this purpose, to direct and appoint for the benefit of the said trade. And we do hereby authorize, enjoin, and require the Governors and commanders in chief of all our colonies respectively, as well those under our immediate government as those under the government and direction of proprietaries, to grant such licenses without fee or reward, taking especial care to insert therein a condition that such license shall be void, and the security forfeited, in case the person to whom the same is granted shall refuse or neglect to observe such regulations as we shall think proper to proscribe as aforesaid.

And we do further expressly enjoin and require all officers whatever, as well military as those employed in the management and direction of Indian affairs within the territories reserved as aforesaid, for the use of the said Indians, to seize and apprehend all persons whatever who, standing charged with treasons, misprisions of treason, murders, or other felonies or misdemeanors, shall fly from justice and take refuge in the said territory, and to send them under a proper guard to the colony where the crime was committed of which they shall stand accused, in order to take their trial for the same.

Given at our Court at St. James's, the 7th day of October 1763, in the third year of our reign.

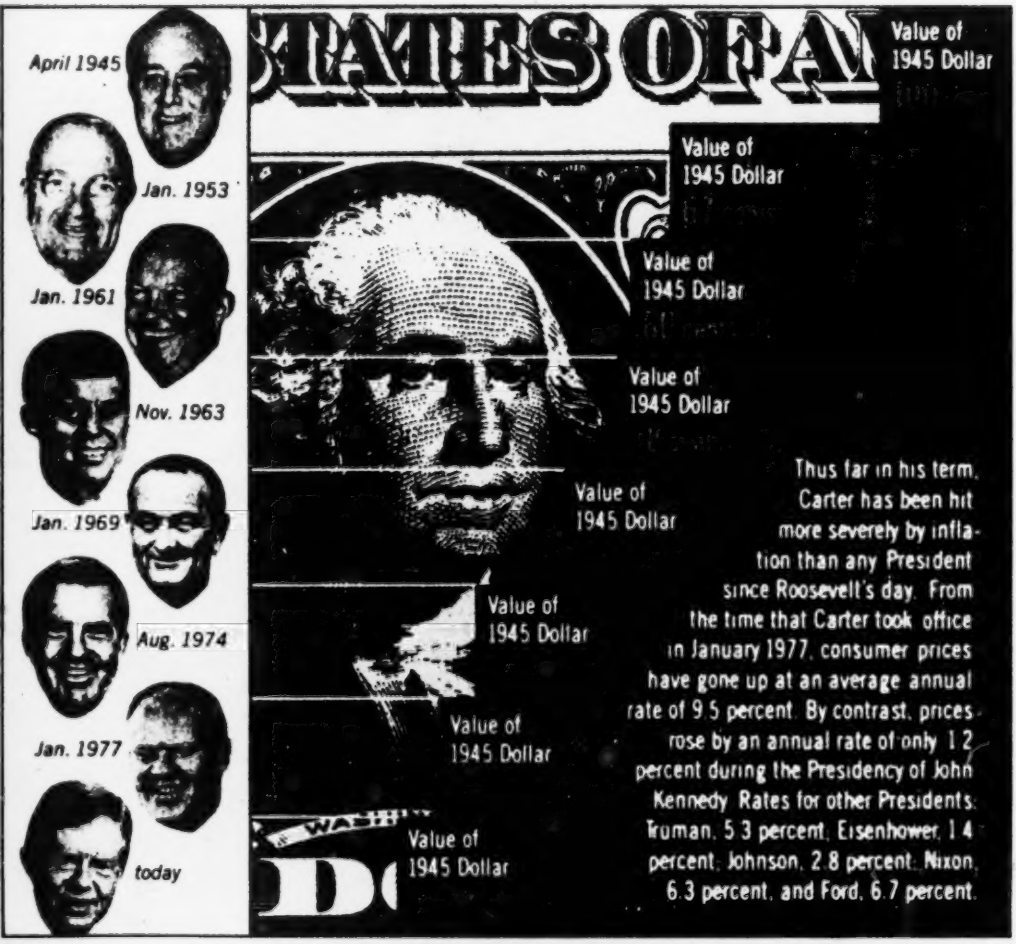
GEORGE, R.

THE BRITISH
GOVERNMENTS
in
NTH AMERICA
Laid down agreeable to the
PROCLAMATION
of
Octr 7. 1763.
Limits of the Hudsons Bay Company
James's Bay
Lake Superior
Limits settled by the Treaty of 1763
Michigan L.
Huron Lake
Erie Lake
Ohio or Allegany R.
Cuskusky R.
LOUISIANA
RESERVED for the INDIANS
Cherokees
Chactaws
Creek
Catawbas
SOUTH CAROLINA
GEORGIA
Savana
Charles Town
Port Royal
St. Augustin
N. Orleans
Missisipi R.
R. Amasure
GULF of MEXICO
Cape of Florida
Cuba
85
80
75
70
65
30
35
40
45
50
70 West Longitude from Paris


Government of
Gulf of
NEWFOUNDLAND
NOVA SCOTIA
The Fishing Banks
ATLANTIC
OCEAN
CLAIMANT'S EXHIBIT NO.
Indian Claims Commission Dkt. No.
Reporter
BERMUDA
or
SUMMER ISLANDS.
N^th Lat. 32°. 20 W. Lon. 47°. 5'.

The 24-Cent Dollar

How higher prices have reduced the value of the dollar– President by President–since the end of World War II


April 1945
Jan. 1953
Jan. 1961
Nov. 1963
Jan. 1969
Aug. 1974
Jan. 1977
today
Value of 1945 Dollar
Value of 1945 Dollar
Value of 1945 Dollar
Value of 1945 Dollar
Value of 1945 Dollar
Value of 1945 Dollar
Value of 1945 Dollar
Thus far in his term, Carter has been hit more severely by inflation than any President since Roosevelt's day. From the time that Carter took office in January 1977, consumer prices have gone up at an average annual rate of 9.5 percent. By contrast, prices rose by an annual rate of only 1.2 percent during the Presidency of John Kennedy. Rates for other Presidents: Truman, 5.3 percent; Eisenhower, 1.4 percent; Johnson, 2.8 percent; Nixon, 6.3 percent, and Ford, 6.7 percent.

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APPENDIX "E"

STAMFORD, CONN.

The Advocate, Friday, March 14, 1980. — 3

$81.5 million proposed to settle Indians' claim

AUGUSTA, Maine (AP) — Maine's attorney general announced an $81.5 million proposed settlement yesterday of the large land claims by Indians against the state. It includes money for the tribes to buy 300,000 acres of privately owned forest land.

The settlement, which would bring years of often bitter negotiations to an end, has yet to be approved by the Penobscot and Passamaquoddy tribes, the Maine Legislature or Congress, according to Attorney General Richard S. Cohen.

Acceptance of the settlement would extinquish the tribes' claim to 12.5 million acres — roughly two-thirds of the state — which they say was taken from them illegally.

As Cohen outlined it, the federal government would pay for the settlement. It would:

—Create a $54.5 million land acquisition fund for the tribes to buy 300,000 acres at "fair market value" from private landowners, mostly multi-national pulp and paper companies. A third tribe, the Maliseets, would get $900,000 from that fund to buy 5,000 acres.

—Set up a $27 million trust fund to be invested by the tribes.

—Delineate legal jurisdiction on the newly acquired Indian land.

Gov. Joseph E. Brennan, who headed the state's negotiating team as attorney general until he was sworn in as governor last year, expressed confidence the state could have defended itself in a court battle over the claims.

But "there are some risks to a trial," and when cases can be settled "it is desirable to settle," he said.